Ashfield
DISTRICT COUNCIL

Report To:	CABINET	DATE:	29th JUNE 2021
Heading:	PUBLIC SPACES PROTECTION ORDER (PSPO) – RENEWAL CONSULTATION		
Portfolio Holder:	DEPUTY LEADER CLLR HELEN ANN SMITH		
Ward/s:	ALL		
Key Decision:	YES		
Subject to Call-In:	YES		

Purpose of Report

The Anti-Social Behaviour, Crime and Policing Act 2014 introduced Public Spaces Protection Orders (PSPO's) to allow Councils to regulate activities; in particular, public spaces that have a detrimental effect on the local community.

PSPO's are intended to deal with a particular nuisance or problem in a specific locality by imposing conditions on the use of that area which apply to everyone. The Order enables Authorised Officers and Police to take specific action within a defined area as set out within requirements of the PSPO.

Recommendation(s)

The purpose of the report is to seek approval from Cabinet to:

1. Carry out the necessary consultation, publicity and notification for the extension of the existing 2015 Public Spaces Protection Order (extended and varied in 2018) for a further period of 3 years;

2. To carry out the necessary consultation, publicity and notification for the variation of the existing 2015 Public Spaces Protection Order (extended and varied in 2018) to include the prohibitions previously set out in the 2018 Junction 27 M1 Car Cruising PSPO which expired on 3 May 2021.

3. To carry out the necessary consultation, publicity and notification for the variation of the existing 2015 Public Spaces Protection Order (extended and varied in 2018) to include a prohibition which restricts the public right of way over the highway namely the strip of land which runs between Bentinck Street and Welbeck Street, Sutton-In-Ashfield.

4. Approve £1,000 be added to the Annual Budget and Medium Term Financial Strategy from 2022/23 to meet the estimated annual maintenance costs of works proposed within this report.

Reasons for Recommendation(s)

Recommendation 1

In accordance with Section 60, Anti-Social Behaviour, Crime and Policing Act 2014, a PSPO may not have effect for a period of more than 3 years unless extended. The existing PSPO of 2015 as amended and varied in 2018, relating to a number of dog, alcohol, direction to move on and urinating issues will expire on 30 September 2021. Unless the PSPO is extended, it will restrict the Council and Police being able to tackle these types of issues throughout the District.

Extending the PSPO ensures that the Council and Police can take suitable action to effectively manage these matters. In addition, evidence has been gathered to support continuation and variation of the PSPO, as detailed within the main body of the report.

Recommendation 2

In line with Section 59 of the Act there must be evidence to support and extend the need for a PSPO including any variations. The separate 2018 PSPO relating to Junction 27 M1 Car Cruising expired on 3 May 2021 and unless the prohibitions in this PSPO are re-introduced, the Council and the Police will not be able to take suitable action to effectively manage these issues. Previous action has included a number of successful partnership operations to tackle car cruising acting as a deterrent for vehicles being driven in an anti-social manner within the Junction 27 vicinity.

Recommendation 3

In line with Section 59 of the Act there must be evidence to support and extend the need for a PSPO including any variations. Initial reports submitted relating to the New Cross area and in particular Welbeck Street and Bentinck Street, Sutton-In-Ashfield, validates the need to close a strip of land between Bentinck and Welbeck Street to reduce incidents of crime and disorder and anti-social behaviour within this vicinity.

Alternative Options Considered

Recommendation 1

That the Council does not approve the necessary consultation and notification to extend and vary the existing PSPO before it ceases on 30 September 2021. This would mean that officers could not continue to take action under these provisions, for instance requesting a person to hand over alcohol, issue a fixed penalty notice or provide evidence for legal action for breaching the PSPO.

This would result in an operational gap, and is likely to impact upon the Council's reputation through public awareness and is likely to lead to:

- an increase in dog fouling (duties also undertaken in partnership with WISE LTD)
- dogs being allowed in children's play areas or in enclosed sports facilities on parks,
- dogs being walked off leads on highways and in cemeteries,
- any number of dogs being walked at any time by one person,
- people consuming alcohol and behaving in a manner to cause a nuisance in any of the areas currently specified,
- no or limited methods to control a dog (i.e. requirement to put a dog on a lead)
- urinating in a public space in any of the areas currently specified,
- Increased Incidents of car cruising and motor related offences at and around Junction 27.
- Not having powers for Community Protection Officers to move a person on when they are behaving in an anti-social manner in specified areas

Recommendation 2

That the Council does not approve the necessary consultation, publicity and notification to vary the existing PSPO to re-introduce the prohibitions which were included in the Junction 27, M1 Car Cruising PSPO. In line with Section 59, Anti-Social Behaviour, Crime and Policing Act 2014, there must be evidence to support the need for a PSPO including variation.

This would result in an operational gap, and is likely to impact upon the Council's reputation through public awareness and is likely to lead to increased Incidents of car cruising and motor related offences at and around Junction 27.

Recommendation 3.

That the Council does not approve the necessary consultation, publicity and notification to vary the existing PSPO in support of closing the said strip of land which runs between Bentinck Street and Welbeck Street, Sutton-In-Ashfield resulting in continued reports of anti-social behaviour and enviro-crime and frustrated residents.

In line with Section 59, Anti-Social Behaviour, Crime and Policing Act 2014, there must be evidence to support the need for a PSPO including variation.

Detailed Information

Existing PSPO which came into effect 1 October 2015 (amended and varied 2018) - Detailed Information on Recommendation 1

The existing Public Spaces Protection Order came into effect on 1 October 2015, which brought together and replaced powers the Council had previously introduced under Alcohol Designated Public Place Orders, Dog Control Orders and a previous by-law (urinating) after the introduction of the Anti-social Behaviour, Crime and Policing Act 2014. The 2015 PSPO was extended and varied in 2018 and expires on 30 September 2021..

This existing Public Spaces Protection Order enables the Council to take preventive or enforcement action in public places on:

1. Alcohol consumption in a designated area
2. Urinating/defecating within a designated area
3. Direction to move on in specified areas
4. Dog fouling
5. Failing to produce device or other means of removing dog faeces on demand
6. Dog exclusion in specified areas
7. Dogs on lead in specified areas
8. Dogs on lead by direction
9. Dogs specified maximum amount

Within the PSPO, there are schedules showing the restricted areas as detailed below:

Schedule 1: deals with alcohol consumption, urination/defecation, orders to move on, along with maps showing the relevant areas.

Schedule 2: deals with dog fouling, requirement to carry dog bags or other suitable receptacles, maximum number of dogs being exercised at one time, dogs on leads by direction. The area to be covered is the whole of Ashfield District, except for Forestry Commission land,

Schedule 3: deals with dog exclusion areas and maps are provided along with lists, showing the relevant areas.

Schedule 4: deals with dogs needing to be on leads in specific areas designated by maps and on lists of areas.

Detailed information as follows:

Alcohol consumption in a designated area.

If a person who is drinking alcohol is behaving or likely to behave in a manner to cause nuisance and annoyance, an officer can request the person not to consume and/or surrender their alcohol, the officer can pour it away. Failing to comply allows an officer to take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. There are 8 designated areas in Ashfield where this applies within the PSPO .

Urinating/defecating within a designated area.

If a person urinates or defecates within the specified area an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. There are 8 designated areas in Ashfield where this applies within the PSPO.

Dog fouling in specified areas.

If a person does not comply with placing their dog on a lead on: each and every length of road (including pavements, footways and verges, and the pedestrianised areas and cemeteries and churchyards - detailed as per **Schedule 4** and accompanying maps) an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court.

Failing to produce device or other means or removing dog faeces on demand.

If a person does not produce a device or other means for removing dog faeces upon request an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire District with the exception of forestry commission land as highlighted within **Schedule 2** and accompanying map as drafted.

Dogs on lead by direction.

If a person does not comply with placing their dog on a lead at the request of an authorised officer, the officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire District with the exception of forestry commission land as highlighted within **Schedule 2** and accompanying map as drafted.

Dogs specified maximum amount.

No more than 6 dogs can be taken out at any one time by one person or an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court. This relates to the entire District with the exception of Forestry Commission land as highlighted within **Schedule 2** and accompanying map as drafted.

Dog exclusion in specified areas

Dogs are excluded from specific locations within Ashfield including: enclosed children's play areas and enclosed sports facilities on parks i.e. tennis courts, bowling greens. An officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court if the person responsible for the dog allows it to enter the exclusion areas as highlighted within **Schedule 3** of the Order and accompanying map as drafted.

Dogs on leads in specified areas.

If a person does not comply with placing their dog on a lead on: each and every length of road (including pavements, footways and verges, and the pedestrianised areas and cemeteries and churchyards (detailed as per **Schedule 4** and accompanying maps) an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court.

Direction to move on

If a person is engaging in behaviour that is anti-social or creating a nuisance or annoyance and fails to move on when asked to do so, an officer can take action by means of issuing a Fixed Penalty Notice or provide evidence for legal action through the Court which may result in prosecution. There are 8 designated areas in Ashfield where this applies and are highlighted within the PSPO 2015 (as extended and varied 2018) **Schedule 1**.

Proposed Extension: The proposed PSPO (as above) will remain in place for a further period of 3 years.

Amendment/Variation – 2018 Junction 27 M1 Car Cruising PSPO which expired on 3 May 2021 - Detailed Information on Recommendation 2

The 2018 PSPO relating to Junction 27 M1 Car Cruising prohibited car cruising events within the designated areas of Junction 27 of the M1 Motorway and A611 where motor vehicles congregate and any of the following activities occured:

- Motor vehicles are driven at excessive speed or accelerated aggressively;
- Motor vehicles are raced against one another
- Stunts are performed in motor vehicles
- Music is played on equipment installed in a motor vehicle which is audible outside the vehicle; or
- Motor vehicles are driven in convoy, whether side by side or in single file
- Sounding horns (so as to cause public nuisance)
- Congregating to spectate the above activities. So as to cause any of the following:
- Excessive noise
- Danger to other road users
- A risk of injury to any person
- A risk of damage to property
- Causing obstruction on a public highway, or
- Publicly accessible place, or private land, whether moving or stationary.

It is proposed that the prohibitions previously contained in the 2018 Junction 27 M1 Car Cruising PSPO are re-introduced.

Amendment/Variation – Strip of land between Bentinck and Welbeck Street, Sutton-In-Ashfield- Detailed Information on Recommendation 3

A number of issues of anti-social behaviour within the vicinity of the cut through between Bentinck and Welbeck Street have been reported which are having a direct impact on the local community and those who reside in, work and visit, Sutton-In-Ashfield.

It is proposed to close the strip of land which runs between Bentinck Street and Welbeck Street, Sutton-In-Ashfield (the Restricted Access Highway) in order to minimise incidents within the area (refer to Map).

The land is unregistered and the Council had been unable to identify an owner and no individuals or other representation have come forward and claimed the land.

The proposal is to install gates at the Welbeck Street and Bentinck Street end of the strip of land. The gates would be locked permanently and keys retained by Ashfield District Council, Nottinghamshire Police and Sanctuary Housing. Keys may be given to some Sanctuary Housing tenants on Bentinck Street who require access and they would be required to lock the gates after use. Under the legislation the Council is responsible for maintaining and operating the barriers.

Evidence

District PSPO

The Council has the power to make a PSPO in accordance with sections 59 to 65 of the Anti Social Behaviour Crime and Policing Act 2014. The PSPO can be made if the local authority is satisfied on reasonable grounds that two conditions are met:

1. Activities being carried on, or that are likely to be carried on, in a public place within the authority's area have a detrimental effect on the quality of life of those in the locality and;
2. The effect, or likely effect of such activities are of a persistent or continuing nature, such as to make the activities unreasonable and justifies the restrictions with the order.

From the initial evidence gathered from Nottinghamshire Police (as accompanied with this report) anti-social behaviour recorded by Nottinghamshire Police has increased over the past two years and by 50% throughout Ashfield during 2020, excluding covid related incidents, anti-social behaviour has increased by 20% in comparison to the previous year.
Around 19.1% of Ashfield residents reported having experienced crime/ASB in 2020, which is 3%. higher than the Nottinghamshire force average of 16.1%.

Detailed within the reports is a breakdown of alcohol related ASB incidents which is commonly seen throughout the whole of the Ashfield District. Community Protection Officers have regularly made use of the powers contained within the existing PSPO and confiscate alcohol from adults within the 8 areas, and now have Direction to Move on Notice booklets.

Unlike the Police, Community Protection Officers are unable to disperse groups drinking or causing Anti-Social Behaviour which has a detrimental effect on the quality of life of those in the locality. The use of the Direction to Move on powers is seen as a crucial tool to help continue to manage anti-social behaviour across the district with 41 'Direction to Move On Notices' issued by Community Protection Officers since April 2021.

Dog fouling and dog control issues continue to be a public concern and are reported to the Council regularly**.** During 2018-21, 756 reports of dog fouling were received, and patrolling officers often receive reports which are not included within these figures. The management of dog control issues

has been further supplemented by the partnership approach with Wise Ltd, and retaining the provisions within the PSPO is seen as fundamental to tackling these issues in partnership with WISE Ltd; and in tandem to the delivery of educational and preventative programmes.

Car Cruising Junction 27

Notwithstanding the reduction of Car Cruising and motoring offences at a county and district-wide level due to the covid-19 pandemic, the car cruising PSPO has been seen as significantly important by both Ashfield District Council and Nottinghamshire Police, for managing issues relating to motoring offences in and around Junction 27.

A downward trajectory of 86 motoring reports relating to Junction 27 were recorded since the introduction of the PSPO. The PSPO has been instrumental for the effective management by the partnership in addressing car cruising through the use of localised initiatives and operations; thus allowing for warnings and where appropriate Fixed Penalty Notices to be issued for such issues. During this period 39 Warnings and 12 Fixed Penalty Notices were issued by Ashfield District Council and Nottinghamshire Police demonstrating the effectiveness of maintaining these provisions for a further 3 years.

Bentick Street and Welbeck Street – Strip of Land

Reported levels of anti-social behaviour within this area amounts to 205 over a yearly period 2019/20 which included incidents relating to alcohol, threatening behaviour, violence, trespassing, and fireworks. Furthermore there were 26 incidents of criminal damage, 74 incidents of stalking and harassment, 85 incidents of violence with injury and 81 incidents without injury.

It is sometimes difficult to attribute crime and ASB to the strip of land, as it is often not recorded in this specific location. However, the overriding anecdotal evidence is that the level of anti-social behaviour within this direct location is considered disproportionally high in comparison to other parts of the District; with police incident reports, officer and community insight, validating the standpoint that the said strip of land is a contributory factor for crime and anti-social behaviour within the area, and informal consultation suggests local residents and partners would support restricting public access.

Evidence received to date from stakeholders within the vicinity which may be affected by closing off the access area, includes informal consultation with residents on Welbeck and Bentinck Street, Stonewater Housing who own the complex of flats at the end of Bentinck and Welbeck Street, and Sanctuary Housing who own properties immediately adjacent to the strip of land on Bentinck Street.

All parties that Ashfield District Council have informally consulted with are in favour of putting in place a long-term solution to the difficulties encountered by anti-social behaviour in the area in question. Currently, due to the number of ASB and criminal incidents (refer to report), residents are concerned about the impact of anti-social behaviour within the area, particularly when it is dark. There are also other monetary implications to consider, such as officer time of attending to service requests, and associated with tidying the area which includes environmental crime such as litter, fly tipping and graffiti with 82 service requests for Environmental issues being reported from April 19 to present. These issues have been longstanding.

Public Consultation, Publicity and Notification

In accordance with statutory guidelines and detailed in Section 72, Anti-Social Behaviour, Crime and Policing Act 2014 the Council must undertake public consultation. This will include: Chief of Police,

appropriate community representatives, owners or occupiers of the land, the Parish Council and the County Council. It is therefore intended that:

- Formal Public Notices will be placed in the Chad/Dispatch
- Letters will be sent to Partners/statutory consultees
- Letters to be sent to interested parties identified i.e. dog walker clubs/groups
- Letters to be sent to all elected Members at District and County level for Ashfield.
- Copies will be placed on the Council's internet site
- Awareness raised through the Council's social media
- Copies of the Orders will be made available in reception
- Awareness raised through screens in reception
- Surveys are undertaken in town centres and localities across Ashfield

In addition, and in accordance with section 64 of the Act in relation to the proposed prohibition restricting the public right of way over the highway between Bentinck Street and Welbeck Street, the Council will consider the likely effect of making the Order on the occupiers of adjoining or adjacent premises and on other persons in the locality. If the highway constitutes a through route, the Council will consider the availability of a reasonably convenient alternative route. The Council will notify potentially affected persons of the proposed Order, inform them of how they can see a copy of the proposed Order, notify them of the consultation period within which they can make representations and consider any representations they make. If appropriate the Council will consult any other local authority if the highway is also within their area.

Timeline

- **29th June 2021** Cabinet Decision to Approve the PSPO 2021 Consultation.
- **12th July- 23rd August 2021** The period of consultation will be 42 days (6 weeks)**.**
- **23th September 2021** Decision for enacting the PSPO 2021 at full Council.

The Council will publish the text of the proposed extended and varied order and will notify authorities including Parish Councils and the County Council as appropriate.

Cost

There is no service budget allocated for the PSPO renewal, therefore the one-off cost implications listed below will be funded from the Community Safety Reserve. The estimated £1,000 annual maintenance cost will be included in the Medium Term Financial Strategy from 2022/23.

Costs have been established for these works as detailed below:

- Publication costs £1,000
- Signage costs £3,000
- Gaiting and Install costs £5000
- Ongoing annual maintenance costs £1000

It must be clearly highlighted that the consultation is not seeking views on whether to incorporate any additional ASB or nuisance issues into this PSPO. The consultation is seeking to ensure there are no material objections or representations with the proposal before a final decision on the enactment of the PSPO as it stands by Full Council is implemented.

Implications

Corporate Plan:

The PSPO will help support place enhancement and safer and stronger priorities enshrined within the Council's Corporate Plan and commitments under the renewed Environmental Charter in order to improve the quality of life for residents within Ashfield. Tools and powers provided as part of the PSPO provisions will assist in enabling an effective response to tackling anti-social behaviour and enviro-crime across the district.

Legal:

Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") provides the authority with the power to make a PSPO if satisfied on reasonable grounds that two conditions are met. Section 60 of the Act provides that a PSPO shall not have effect for longer than 3 years unless extended under this section. Section 61 provides a power to vary a PSPO by increasing or reducing the restricted area; or by altering or removing a prohibition or requirement included in the order, or adding a new one.

Section 72 details the requirements for convention rights, consultation, publicity, and notification. The authority must have taken into account articles 10 and 11 of the Convention, carried out the necessary consultation and publicity and notification before making, extending or varying or discharging a PSPO.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	A one-off budget approval of approximately £10,000 will required to meet the costs identified which will be funded from the Community Safety Reserve in 2021/22. The £1,000 recurrent annual maintenance cost will be included in the refresh of the Medium Term Financial Strategy from 2022/23.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
Risk of not obtaining requirements within the PSPO	To explore options of obtaining additional dissolved powers as part of the Community Safety Accreditation Scheme (CSAS) and in line with Police Reform Act 2002.

Human Resources:

No direct implications.

Equalities:

In recommending consultation of the proposed PSPO, consideration has also been had to Articles 10 and 11 of the Human Rights Act 1998 which allows the rights to expression and assembly. However, the Human Rights Act does allow restriction of these human rights for the purposes of the prevention of crime and disorder, or to protect the health or the rights and freedoms of others. The proposals set out for the PSPO are intended to ensure that the anti-social behaviours caused by the activities are addressed so that public spaces can be enjoyed without fear or intimidation by the law-abiding majority of the community.

Other Implications:

The PSPO is seeking to address issues which impact on quality of life and public safety.
These issues can affect both the physical and mental well-being of residents and therefore these proposals would have a significant impact on community well-being.

Communications: a press statement will be published, and social media will be regularly updated on progress.

Reason(s) for Urgency
Not applicable

Reason(s) for Exemption
Not applicable

Background Papers
Not applicable

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